

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: June 27, 2014

* * * * *

MELISSA DAVIS and CECIL DAVIS, SR.,*
as the Parents and Natural Guardians *
of C.D.J., an Infant, *

UNPUBLISHED
No. 10-615V

Petitioners,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

Special Master Dorsey

Attorneys' Fees and Costs;
Reasonable Amount Requested to which
Respondent Does not Object.

* * * * *

Mark T. Sadaka, Law Offices of Sadaka Associates, LLC, Englewood, NJ, for petitioners.
Justine E. Daigneault, United States Department of Justice, Washington, DC, for respondent.

ATTORNEYS' FEES AND COSTS DECISION¹

On September 14, 2010, Melissa Davis and Cecil Davis, Sr. ("petitioners"), as the parents and natural guardians of C.D.J., an infant, filed a petition pursuant to the National Vaccine Injury Compensation Program.² 42 U.S.C. §§ 300aa-1 to -34 (2006). Petitioners alleged that numerous vaccinations, including Pediarix,³ Prevnar,⁴ PedvaxHIB,⁵ and RotaTeq⁶ that C.D.J. received on

¹ Because this decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends to post this decision on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the entire decision will be available to the public. Id.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2006) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

³ Pediarix consists of diphtheria-tetanus-acellular-pertussis ("DTaP"), hepatitis B, and inactivated polio virus ("IPV") vaccines. See Centers for Disease Control & Prevention,

September 26, 2007, caused him to suffer from epileptic seizures and hypotonia.⁷ Petition at 1. On February 19, 2014, the undersigned entered a decision dismissing the case for failure to make a prima facie case.

On June 27, 2014, the parties filed a Stipulation of Facts Concerning Attorneys' Fees and Costs. According to the stipulation, the parties stipulate to an award to petitioners of attorneys' fees and costs in the amount of \$31,111.03. In accordance with General Order #9, petitioners' counsel represents that petitioners did not personally incur any reimbursable costs in pursuit of their claim.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). Based on the reasonableness of the parties' stipulation, the undersigned **GRANTS** the request for approval and payment of attorneys' fees and costs.

Accordingly, an award should be made as follows:

in the form of a check jointly payable to petitioners and to Mark T. Sadaka, Esq., of the Law Offices of Sadaka Associates, LLC, in the amount of **\$31,111.03**.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.⁸

Pediarix Vaccine: Questions and Answers, <http://www.cdc.gov/vaccines/vpd-vac/combo-vaccines/pediarix/faqs-hcp-pediarix.htm>.

⁴ Prevnar 13 is a pneumococcal conjugate vaccine, also known as PCV 13. See Centers for Disease Control & Prevention, Pneumococcal Vaccination, available at <http://www.cdc.gov/VACCINES/vpd-vac/pneumo/default.htm>.

⁵ PedvaxHIB is a Haemophilus influenzae type b vaccine which prevents meningitis (an infection of the covering of the brain and spinal cord), pneumonia (lung infection), epiglottitis (a severe throat infection), and other serious infections caused by a type of bacteria called Haemophilus influenza type b. See Centers for Disease Control & Prevention, Hib Vaccination, available at <http://www.cdc.gov/Vaccines/vpd-vac/hib/default.htm>.

⁶ RotaTeq is a vaccine used to prevent severe rotavirus disease in infants and children. See Centers for Disease Control & Prevention, Statement Regarding Rotarix and RotaTeq Rotavirus Vaccines and Intussusception, <http://www.cdc.gov/vaccines/vpd-vac/rotavirus/intussusception-studies-acip.htm>.

⁷ Hypotonia is "a condition of diminished tone of the skeletal muscles, so that they have diminished resistance to passive stretching and are flaccid." Dorland's Illustrated Medical Dictionary (32d ed. 2012) at 907.

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Special Master

⁸ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.